

GOTLIB LAW

January 7, 2020

Via ECF

The Honorable Colleen McMahon
Chief United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

1/22/2020
Take the plea before the magistrate
Probation to provide an expedited PSR
Hearing to be 2/3/2020 at 2:15pm

Re: United States v. Gonzalo Enrique Botero Saenz, 16 Cr. 136 (CM)

Dear Chief Judge McMahon:

I represent Gonzalo Enrique Botero Saenz in the above-referenced matter. I write to respectfully request that the Court conduct Mr. Botero Saenz's plea hearing and sentencing hearing on the same date, or alternatively, that the Court order Probation to issue an expedited Presentence Report that would be ready for a sentencing hearing on or around February 3, 2020. The government objects to conducting the plea and sentencing hearings on the same date but has no objection to an expedited PSR and a sentencing hearing on or around February 3, 2020.

Mr. Botero Saenz is prepared to plead guilty to conspiring to distribute, and possess with intent to distribute, one hundred grams and more of mixtures and substances containing a detectable amount of heroin, in violation of Title 21, United States Code, Sections 812, 841(a)(1), 841(b)(1)(B), and 846. In the plea agreement the government states that it believes that Mr. Botero Saenz appears to satisfy the conditions set forth in Title 18, United States Code, Section 3553(f) for relief from the statutory minimum sentence provision and that, absent new information, it will take the position at sentencing that the statutory mandatory minimum sentence does not apply. The undersigned intends to argue for a sentence of time served at Mr. Botero Saenz's sentencing hearing.

As noted during the September 4, 2019 status conference, Mr. Botero Saenz spent two years incarcerated in Colombia pending his extradition to the United States for this matter. *See ECF No. 139 at 6-7.* That time was not and will not be credited toward any other sentence. As the Court may recall, Mr. Botero Saenz's presence was waived from the September 4, 2019 status conference due to medical issues. *See id. at 1.* As noted during the conference, Mr. Botero Saenz is 75 years old and suffers from a myriad of serious medical conditions. *See id. at 3-4.* Since the conference many of his conditions have become worse and additional medical issues have manifested.

After Mr. Botero Saenz completes serving his sentence in this matter he will be deported to Colombia. He is eager for that to occur so he can return to his family and obtain treatment from his physicians.

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It is respectfully requested that the Court conduct Mr. Botero Saenz's plea hearing and sentencing hearing on the same date, preferably on or around February 3, 2020, or alternatively, that the Court order Probation to issue an expedited Presentence Report that would be ready for a sentencing hearing on or around February 3, 2020.

In addition, I respectfully request, with the consent of the government, that the status conference currently scheduled for January 9, 2020, be canceled and that the Court exclude time under the Speedy Trial Act until the date of Mr. Botero Saenz's sentencing as such an exclusion would be in the interests of justice.

Thank you for your consideration.

Respectfully submitted,

/s/

Valerie A. Gotlib

cc: all counsel of record (*via* ECF)